

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SAMANTHA CATHLEEN STEWART,

Plaintiff,

6:12-cv-00155-TC

v.

FINDINGS AND
RECOMMENDATION

STATE OF OREGON, et al.,

Defendants.

COFFIN, Magistrate Judge.

By Order (#5) entered February 15, 2012, plaintiff was allowed 30 days to file an amended complaint curing the deficiencies set forth in the court's order.

On March 19, 2012, plaintiff filed an Amended Complaint (#8). However, the amended complaint does not cure the deficiencies that led to the dismissal of the first complaint.

The first 7 pages of the complaint quote the provisions

of Section 508 of the Rehabilitation Act of 1973, as amended 29 U.S.C. § 794(d). The relevance of this portion of the complaint to plaintiff's claims is not explained and is not clear.

The "Claim" portion of plaintiff's complaint is also not clear. Plaintiff's claim apparently involves a child custody dispute or state proceeding involving parental rights. Beyond that, the court cannot interpret plaintiff's allegations or make sense of her claim.

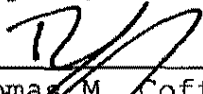
What is clear is that many of the defendants are absolutely immune from liability under principles of Eleventh Amendment immunity or absolute and or qualified immunity. Also, because plaintiff is apparently attempting to challenge State of Oregon judicial decrees, her claims are barred by the *Rooker/Feldman* doctrine which hold that federal courts lack subject matter jurisdiction to review final decisions of state court judicial proceedings. "This is true even when the challenge to a state court decision involves federal constitutional issues." Branson v. Nott, 62 F.3d 287, 291 (9th Cir. 1995). See also, McKay v. Pfeil, 827 F.2d 540, 544-45 (9th Cir. 1987).

Based on the foregoing, plaintiff's Amended Complaint (#8) should be dismissed with prejudice. This proceeding should be dismissed.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

Any appeal from an order adopting this Finding and Recommendation and judgment of dismissal would be frivolous and not taken in good faith.

DATED this 20 day of April, 2012.



Thomas M. Coffin
United States Magistrate Judge